**St. Charles Manufacturing Corporation *and* Furniture Workers Division, Local 282, International Union of Electronic, Electrical, Salaried and Machine and Furniture Workers, AFL–CIO.** Case 15–CA–11532

January 10, 1992

## DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS DEVANEY AND RAUDABAUGH

Upon a charge filed by the Union on May 17, 1991, the General Counsel of the National Labor Relations Board issued a complaint on June 18, 1991, and an amended complaint on August 19, 1991, against St. Charles Manufacturing Corporation, the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge, complaint, and amended complaint, the Respondent has failed to file an answer.

On October 28, 1991, the General Counsel filed a Motion to Transfer and Continue Case before the National Labor Relations Board and for Summary Judgment. On November 4, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

### Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The amended complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the amended complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that counsel for the General Counsel, by certified letter dated October 3, 1991, notified the Respondent that unless an answer was received by close of business October 15, 1991, a Motion for Summary Judgment would be filed. The Respondent has failed to file an answer.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

### FINDINGS OF FACT

#### I. JURISDICTION

The Respondent, a Mississippi corporation, with an office and place of business in Flora, Mississippi, is engaged in the manufacture and nonretail sale of institutional furniture. During the 12-month period ending May 31, 1990, the Respondent, in the course and conduct of its business operations, sold and shipped from its facility products, goods, and materials valued in excess of $50,000 directly to points outside the State of Mississippi. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

#### II. ALLEGED UNFAIR LABOR PRACTICES

On October 30, 1986, the Union was certified as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

> All production and maintenance employees employed by the Respondent at its Flora, Mississippi facility; but excluding all office clerical employees, temporary employees, guards and supervisors as defined in the Act.

On or about March 11, 1991, the Respondent ceased operations and terminated the employment of the unit employees. On March 12, 1991, the Respondent changed its reporting pay policy. The effects of Respondent's actions relate to wages, hours, and other terms and conditions of employment and are mandatory subjects of bargaining. The Respondent, however, failed to give the Union prior notice of these actions or afford it an opportunity to negotiate and bargain with respect to them. On or about March 14, 1991, the Union requested the Respondent to bargain regarding the effects of its decision to cease operations. Since that date, however, the Respondent has failed and refused to bargain with the Union concerning the effects of its decision to close the facility.

We find that by the acts and conduct described above, the Respondent has failed and refused, and is failing and refusing, to bargain collectively and in good faith with the representative of its employees. The Respondent thereby has been engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

## CONCLUSIONS OF LAW

By refusing to bargain in good faith with the Union regarding the effects of its decision to cease operations and terminate the employment of the unit employees and by unilaterally changing its reporting pay policy, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

We shall order the Respondent to bargain with the Union, on request, about the effects of its March 11 cessation of business operations and termination of the employment of the unit employees. Further to ensure meaningful bargaining and to effectuate the policies of the Act, we shall order the Respondent to pay its employees backpay at the rate of their normal wages when last in the Respondent's employ from 5 days after the date of this decision until the occurrence of the earliest of the following conditions: (1) the date the Respondent bargains to agreement with the Union on those subjects pertaining to the effects of the discontinuation of its operations; (2) a bona fide impasse in bargaining; (3) the failure of the Union to request bargaining within 5 days of this decision or to commence negotiations within 5 days of the Respondent's notice of its desire to bargain with the Union; or (4) the subsequent failure of the Union to bargain in good faith. In no event shall the sum paid to any of the employees exceed the amount each would have earned as wages from the time the Respondent terminated its operations, to the time each secured equivalent employment elsewhere, or the date on which the Respondent shall have offered to bargain, whichever occurs first; provided, however, that in no event shall this sum be less than the amount these employees would have earned for a 2-week period at the rate of their normal wages when last in the Respondent's employ.

In addition, the Respondent shall make its employees whole for any losses resulting from the Respondent's unilateral change in its reporting pay policy.

Interest on all sums due under the Order here shall be computed as provided in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

Finally, in view of the Respondent's termination of its operations, we shall provide for notices to be mailed to employees.

## ORDER

The National Labor Relations Board orders that the Respondent, St. Charles Manufacturing Corporation, Flora, Mississippi, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain in good faith with Furniture Workers Division, Local 282, International Union of Electronic, Electrical, Salaried and Machine and Furniture Workers, AFL–CIO regarding the effects of its decision to cease operations and terminate the employment of the unit employees.

(b) Refusing to bargain in good faith with the Union by unilaterally changing its reporting pay policy.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain collectively with the Union with respect to the effects on unit employees of the decision to cease operations and terminate the employment of unit employees, and reduce to writing any agreement reached as a result of such bargaining.

(b) Pay employees terminated on or about March 11, 1991, their normal wages for the period set forth in the remedy section of this decision.

(c) Make whole, with interest, unit employees for any losses resulting from the unilateral change of the reporting pay policy.

(d) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(e) Mail a copy of the attached notice marked "Appendix"[1] to the Union and to all unit employees who were on the payroll on March 11, 1991. Copies of the notice, on forms provided by the Regional Director for Region 15, after being signed by the Respondent's authorized representative, shall be mailed by the Respondent immediately on receipt as directed.

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[1] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

## APPENDIX

NOTICE TO EMPLOYEES
MAILED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to mail and abide by this notice.

WE WILL NOT refuse to bargain with Furniture Workers Division, Local 282, International Union of Electronic, Electrical, Salaried and Machine and Furniture Workers, AFL–CIO regarding the effects of our decision to cease operations and to terminate the employment of the unit employees.

WE WILL NOT refuse to bargain with the Union by unilaterally changing our reporting pay policy.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain collectively with the Union with respect to the effects on the unit employees of our decision to cease operations and to terminate the employment of the unit employees, and to reduce to writing any agreement reached as a result of such bargaining. The appropriate unit is:

> All production and maintenance employees employed by us at our Flora, Mississippi facility; but excluding all office clerical employees, temporary employees, guards and supervisors as defined in the Act.

WE WILL pay to employees terminated on or about March 11, 1991, limited backpay as required by the National Labor Relations Board.

WE WILL make whole, with interest, unit employees for any losses resulting from our unilateral change to the reporting pay policy.

ST. CHARLES MANUFACTURING CORPORATION